

Filed for intro on 02/03/2000

HOUSE BILL 2934

By Buck

AN ACT to amend Tennessee Code Annotated, Title 71, Chapter 6, Part 1.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 71-6-102, is amended by adding a new item to be appropriately designated:

() "Aggravated conduct" means the infliction of physical pain from which serious bodily injury results, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult where such infliction or deprivation constitutes a gross and willful deviation from the standard of care normally provided by caretakers of similar training or education in comparable surroundings.

SECTION 2. Tennessee Code Annotated, Section 71-6-120(d), is amended by deleting the second sentence in its entirety and substituting instead the following:

Cost shall include reasonable expenses, and in the case of either (i) exploitation resulting in theft or conversion of assets; or (ii) sexual abuse, cost shall also include reasonable attorneys fees upon showing by clear and convincing evidence that such exploitation or sexual abuse was intentional.

SECTION 3. Tennessee Code Annotated, Section 71-6-120(e), is amended by deleting the current language in its entirety and substituting instead the following:

If, in addition to the elements provided in subsection (d), it is proven that the defendant is a licensed health care practitioner or that the actions occurred in a facility or were committed by staff of a facility licensed or required to be licensed under Titles 68 or 33, punitive damages may also be awarded upon a finding by clear and convincing evidence of aggravated conduct, sexual abuse, or exploitation resulting from intentional, fraudulent or malicious conduct on the part of the defendant. A facility or person licensed or required to be licensed under Titles 68 or 33 shall not be held vicariously liable for the intentional, malicious or fraudulent acts of facility staff or employees, except as otherwise provided by applicable law.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.